

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KIRK D. ROBINSON,

Plaintiff,

vs.

OMAHA CORRECTIONS CENTER, OCC;
All sued in their individual capacities; BARB
LEWIEN, Warden; All sued in their
individual capacities; FREESE, Deputy
Warden; All sued in their individual
capacities; JANE SKINNER, Librarian at the
reception and Treatment Center (RTC); All
sued in their individual capacities; JULIE
ROGERS, Deputy Ombudsman; All sued in
their individual capacities; SARA
AMSBERRY, All sued in their individual
capacities; SHAWN, at the Nebraska
Ombudsman's Office; All sued in their
individual capacities; and DOUG
KOEBERNECK, Inspector General of
Correction Services; All sued in their
individual capacities;

Defendants.

8:22CV398

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Status, [Filing No. 10](#); Motion for Review, [Filing No. 11](#); and Motion to Refile and Extension of Time, [Filing No. 15](#). For the reasons stated, the Motion for Status will be granted; the Motion for Review will be denied as moot; and the Motion to Refile and Extension of Time will be interpreted as a motion to amend the complaint which will be granted.

I. BACKGROUND

On May 17, 2023, the Court determined Plaintiff's Complaint, even construed liberally, failed to state a claim for which relief can be granted. [Filing No. 9 at 5](#). The

Court explained that Plaintiff's Complaint, [Filing No. 1](#), did not make allegations against several named Defendants, Plaintiff's claims for damages were barred by sovereign immunity, and Plaintiff failed to sufficiently plead an Equal Protection claim. See [Filing No. 9 at 6-10](#). Although Plaintiff failed to state a claim upon which relief may be granted, the Court gave Plaintiff 30 days in which to file an amended complaint that stated a plausible equal protection claim. Plaintiff filed an amended complaint on June 8, 2023, [Filing No. 12](#), but asserts that he did not learn of the instructions in the Court's initial review order until July 20, 2023, [Filing No. 15 at 2](#).

II. DISCUSSION

A. Motion for Status

Plaintiff filed a Motion for Status that appears to be an incomplete document. Plaintiff filed the same motion in Case No. 8:22CV151, [Filing 30](#); and Case No. 8:22CV412, [Filing 12](#). The motion is still pending in Case No. 8:22CV151 because Plaintiff filed several other related motions with it but, upon consideration, was granted in Case No. 8:22CV412, [Filing 11](#). Upon consideration in this case, the Court concludes that the Motion for Status will be granted.

B. Motion for Review

Plaintiff's Motion for Review was also filed in several cases. Plaintiff requests a quick review of all his cases so he could proceed to the court of appeals and be finished with the corrupt and unethical Nebraska courts. [Filing No. 11 at 1](#). When Plaintiff filed his Motion for Review, he was unaware that the Court had already completed an initial review of his Complaint in this case. See [Filing No. 15 at 1](#). As discussed below, Plaintiff

is now aware of the Court's initial review and requests an extra 90 days to file an amended complaint. [Filing No. 15 at 1](#). Accordingly, Plaintiff's request for review is moot.

C. Motion to Refile and Extension of Time

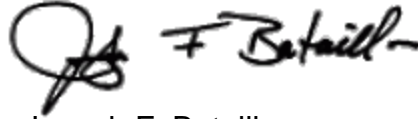
The Court construes Plaintiff's Motion to Refile as a motion to amend his amended complaint. Plaintiff asserts that he recently learned of the instructions given in the Court's prior Memorandum and Order, [Filing No. 9](#), and seeks leave to file an amended complaint that complies with the instructions. Plaintiff also requests that he be given 90 days to complete his amendment because of his limited access to the prison library. The Court concludes Plaintiff's Motion should be granted and he will be given leave to amend his amended complaint within 90 days of the date of this Memorandum and Order.

IT IS THEREFORE ORDERED:

1. Plaintiff's Motion for Status, [Filing No. 10](#), is granted.
2. Plaintiff's Motion for Review, [Filing No. 11](#), is denied as moot.
3. Plaintiff's Motion to Refile and Extension of Time, [Filing No. 15](#), construed as a motion to amend the amended complaint, is granted.
4. Plaintiff shall have 90 days to file an amended complaint in accordance with this Memorandum and Order and the Court's Memorandum and Order dated May 17, 2023, [Filing No. 9](#). Failure to file an amended complaint within the time specified by the Court will result in the Court dismissing this case without further notice to Plaintiff.
5. The Court reserves the right to conduct further review of Plaintiff's claims in the event he files an amended complaint.
6. The Clerk of the Court is directed to set a pro se case management deadline using the following text: **October 31, 2023**—amended complaint due.

Dated this 1st day of August, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "JF Bataillon". The signature is stylized with a large, circular initial "J" and a long, horizontal stroke extending to the right.

Joseph F. Bataillon
Senior United States District Judge